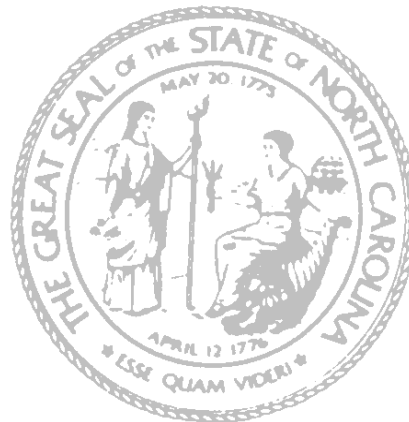


**North Carolina State Government**

**WORKERS'  
COMPENSATION  
EMPLOYEE  
HANDBOOK**



**PREPARED AND PUBLISHED BY  
NORTH CAROLINA OFFICE OF STATE PERSONNEL**

January 2010

## **PURPOSE**

The contents in this handbook are designed to provide employees of the State of North Carolina with an understanding of the workers' compensation coverage provided to them by the State under the State Government Workers' Compensation Program and the general provisions of the North Carolina Workers' Compensation Act. It provides employees who have suffered an accidental injury on the job or contracted an occupational disease with the general guidelines to follow in filing their claim and the benefits they obtain.

The handbook is designed to give a general explanation of the employee's entitled benefits concerning workers' compensation coverage and the rights and duties of the employee and the employer. This is not a legal explanation of the North Carolina Workers' Compensation Act. If any questions are not specifically covered further information may be found in North Carolina General Statute 97, which is the North Carolina Workers' Compensation Act.

**Notice To State Government Employees:** If you have an accident or if you are injured on the job you should immediately notify your supervisor. If your injury requires medical treatment you should follow the agency or university procedures regarding medical treatment. A third party administrator may handle your agency or university's workers' compensation claims. If you have questions about coverage or benefits under workers' compensation you should follow your agency or university's procedures and either contact the agency or university Workers' Compensation Administrator or the third party adjuster assigned to your agency or university.

**Agency / University Name:** \_\_\_\_\_

**Division:** \_\_\_\_\_

### **Agency /University Workers' Compensation Administrator**

Name: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

### **Claims Adjuster**

Name: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

### **Agency / University Safety Officer**

Name: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

## **CONTENTS**

	<b>PAGE</b>
<b>EMPLOYEE COVERAGE</b>	<b>1</b>
<b>COVERAGE DETERMINATION GUIDELINES</b>	<b>1</b>
<b>RESPONSIBILITY OF EMPLOYEE</b>	<b>1</b>
<b>RESPONSIBILITY OF YOUR EMPLOYER</b>	<b>3</b>
<b>LEAVE POLICY</b>	<b>3</b>
<b>AVERAGE WEEKLY WAGES</b>	<b>5</b>
<b>MEDICAL BENEFITS</b>	<b>5</b>
<b>DISABILITY COMPENSATION</b>	<b>5</b>
<b>DEATH BENEFITS</b>	<b>6</b>
<b>RETURN TO WORK</b>	<b>7</b>
<b>CONTINUATION OF BENEFITS</b>	<b>8</b>
<b>CLOSING OF CLAIMS &amp; CHANGE OF CONDITION</b>	<b>8</b>
<b>PAYMENT SCHEDULE OF INJURIES AND PERIOD OF COMPENSATION</b>	<b>9</b>
<b>ASSISTANCE PROVIDED</b>	<b>10</b>

## **EMPLOYEE COVERAGE**

All North Carolina State Government employees are covered under the State Government Workers' Compensation Program. This includes all agency or university and university employees and officers. It also includes all State elected officials, members of the General Assembly or those appointed by the Governor to serve on a per diem, part-time or fee basis. It covers full-time employees, part-time employees and temporary employees.

## **COVERAGE DETERMINATION GUIDELINES**

As defined under the North Carolina Workers' Compensation Act an injury is covered under workers' compensation if it was caused by an accident or incident that arose out of and in the course of your employment. The Workers' Compensation Act does not provide compensation for all injuries, but for injuries by accident. An accident is defined in the law as a separate event preceding and causing the injury. Unless there is an accident, an injury received while performing the regular duties in the usual and customary manner is not compensable.

There are two exceptions to the "by accident" requirements of the law. These are back injuries and hernias. If either of these injuries is caused by a specific traumatic incident of the work assigned they are compensable in the absence of an accident preceding the injury.

Certain diseases termed "occupational diseases" are compensable under the North Carolina Workers' Compensation Act. An occupational disease is any disease, which is proven to be due to causes, and conditions, which are characteristic of a particular occupation or employment, and the exposure is greater than that of the general public outside of the employment. Diseases of this nature are generally caused by a series of events of similar nature, occurring regularly or at frequent intervals over a period of time in the employment. Only those occupational diseases specifically designated in the North Carolina Workers' Compensation Act are compensable. All ordinary diseases of life to which the general public is equally exposed are excluded.

## **RESPONSIBILITY OF EMPLOYEE**

Responsibility for claiming compensation is on the injured employee. You must immediately give notice of the accident to the employer or as soon as possible after the accident occurs; in any event within 30 days or the employer may refuse compensation. With reference to occupational disease, an employee must give notice to the employer when a competent medical authority first informs the employee of the nature and work-related cause of the illness. Either the employee or the employer must file a claim with the North Carolina Industrial Commission (**NCIC**) within two years from the date or knowledge thereof; otherwise the statute prohibits the claim.

Generally in State agencies and universities, employees notify their immediate supervisor of an accident. You can provide written notice to your employer that an accident with an injury or diagnosis of a work-related illness has occurred in the manner required by your agency or university. Typically, this will be in one of the following three forms:

1. The State Government Workers' Compensation Program provides a form (SGWCP-2) for you to describe the accident or injury and for selection of your leave options if you lose time from work because of the injury. This form may be obtained from your supervisor or agency or university WC Administrator.
2. Your agency or university may have a developed internal form for you to use. This form may be obtained from your supervisor or WC Administrator.
3. Complete a NCIC Form 18. This form is used to notify the NCIC of a claim and will be provided by the employer or may be obtained from the NCIC. The form must be filed directly with the NCIC by the employee.

Upon receipt of notice of the injury or illness, the employer then completes an NCIC Form 19, which is the employer's report of injury. You will receive a copy of the completed form with a blank Form 18.

You are responsible to accept the medical treatment provided by the employer. The employer should provide medical treatment for the injury or refer you to a specific physician. If the employer fails to provide the necessary medical treatment or physician referral for the injury, you may obtain the necessary initial treatment from a physician or hospital of your own choice. State agencies and universities have specific procedures for their employees to follow for the treatment of injuries, such as in-house treatment or a predetermined list of physicians for you to visit. If your agency or university has specific treatment procedures you should follow their guidelines. Once the treating physician is established you cannot change treating physicians for the injury unless the employer or the NCIC approves a referral.

Any absences from work related to the injury must be authorized with a statement from the treating physician. Also, any medical restrictions resulting from the injury placed on you by the treating physician must be documented. Any documentation given to you by the physician must be provided to your supervisor or the agency or university Workers' Compensation Administrator as soon as possible.

An adjuster from the third party administrator will contact you in the claim investigation and administration process. You should provide all requested information, in order to move forward with processing of the claim.

Your supervisor is responsible for notifying the WC Administrator when you return to work after a period of disability relating to the injury. However, if you receive a payment for temporary total disability after you have returned to work, notify your supervisor or WC Administrator immediately. If you do not report the erroneous payment, you will be responsible for reimbursing the State for any overpayment made as a result of erroneous duplicate payments.

### **RESPONSIBILITY OF YOUR EMPLOYER**

When an employee is injured the primary responsibility of the employer is to arrange for and provide the necessary treatment for any work related injury. The Third Party Administrator (TPA) is responsible for accepting or denying liability for the State and is also responsible for monitoring and processing the claims. Additionally, the TPA is responsible to pay medical benefits and compensation in accordance with the North Carolina Workers' Compensation Act. The agency or university and TPA try to provide the best possible medical care for injured employees to help them reach maximum medical improvement and return to work as soon as possible.

Each State agency and university has a Workers' Compensation Administrator who is responsible for the administration of the workers' compensation program for that agency or university. Each agency and university also has a Third Party Administrator Adjuster assigned to handle its claims. Employees may call either person for questions concerning their claim, depending on the process established by their agency or university.

### **LEAVE POLICY**

You have certain leave options to elect if a compensable injury causes you to lose time from work. On the day of the injury, if you lose time from work due to the injury you shall not be charged leave for time lost from work. You are expected to return to work unless the treating physician indicates that you must go home for the day.

If the injury results in more than one lost workday you must go on workers' compensation leave and receive workers' compensation weekly benefits for time lost from work. Currently under North Carolina Workers' Compensation Act there is a seven-day waiting period where no compensation for time lost from work shall be allowed except when the injury results in disability for more than 21 days. If the disability exceeds 21 days then the compensation shall be allowed from the date of the disability.

The following leave options covering the waiting period are provided for all state government employees, except certain law enforcement officers and public school employees injured in an episode of violence:

*Option 1:* Elect to take sick or vacation leave during the required waiting period and then go on Workers' Compensation leave and begin drawing workers' compensation weekly benefits. Note that if the injury results in disability exceeding 21 days no adjustment will be made in the leave used for these workdays.

*Option 2:* Elect to go on Workers' Compensation leave with no pay for the required waiting period and then begin drawing workers' compensation weekly benefits.

*Supplemental Leave Option:* After you begin drawing the workers' compensation weekly benefit you also have the option to supplement this benefit by the use of partial sick or vacation leave, earned prior to the injury or illness, in accordance with a schedule published each year by the Office of State Personnel. Since you must go on Workers' Compensation leave and draw weekly benefits, this supplemental leave use can provide an income approximately equal to your take home pay prior to the injury.

Once selection or waiver of any of the three options described above has been made, it may not be changed for the duration of the claim.

Employees injured on the job in a compensable accident who require medical or therapy visits during regularly scheduled working hours in order to reach maximum medical improvement, shall not be charged leave for time lost from work for required treatment. Paid time will be limited to reasonable time for the treatment and travel; any excess time will be charged as sick or vacation/bonus leave or leave without pay.

#### Salary Continuation Plans:

*For Certain Law Enforcement Officers:* There is a salary continuation plan for certain law enforcement officers who are subject to the Criminal Justice Training and Standards Act. Employees who are subject to this special benefit will receive full salary compensation for up to two years if incapacity is the result of an injury by accident or occupational disease arising out of and in the course of their official duties.

*For Public School Employees Injured in An Episode of Violence:* There is also a salary continuation plan for employees who are full time employees of an educational institution supported by and under the control of the State when injured in an episode of violence as described in G.S. 115-C-338. Under those conditions the employee is entitled to salary continuation for the shortest of the following three periods: 1) one year; 2) the continuation of the disability; or 3) the lost work time due to the injury.

In addition to salary continuation the employees in these two groups receive all other workers' compensation benefits other than temporary total weekly benefits during the period of salary continuation. If the disability results in incapacity for more than the allowed period of salary continuation, the employee would be subject to all provisions of the North Carolina Workers' Compensation Act.

## **AVERAGE WEEKLY WAGES**

When you begin drawing weekly compensation benefits the amount of compensation is based on sixty-six and two-thirds percent (66 2/3%) of your average weekly earnings in the employment in which the injury occurred during the past 52 weeks prior to the injury. Adding all wages earned by you in that period, then dividing that number by 52 determines your average weekly wage. The average weekly wage is subject to a statutory compensation rate minimum and maximum amount, which is established annually by the North Carolina Industrial Commission. If you have lost more than seven consecutive calendar days at one or more times during the 52-week period these weeks are deducted when calculating the average weekly wage. If you have worked for less than one year in the job when injured the average weekly wages are based on the number of weeks worked prior to the injury.

## **MEDICAL BENEFITS**

If you have a compensable injury you are entitled to medical benefits to treat the injury. Your employer pays for these medical benefits. The employer should provide a medical treatment authorization form for the employee to give to the treating physician. If not, make the physician aware that the injury occurred on the job and the bills should be forwarded to your employer. These include the payment of medical, surgical, hospital, nursing services, sick travel, prescription drugs, and rehabilitation services which are prescribed by the treating physician to give relief or effect a cure on the injury covered. The State Government Workers' Compensation Program allows for vocational rehabilitation assistance if the severity of the disability requires that vocational rehabilitation is necessary to assist you to obtain suitable employment consistent with your performance capabilities.

Payment of all medical benefits is subject to approval based on a fee schedule established by the NCIC. It is unlawful for any physician, nurse or hospital to accept any fee from a person for treatment of a workers' compensation compensable injury other than the fee approved by the NCIC and paid by the employer.

## **DISABILITY COMPENSATION**

If an injury requires more than medical benefits you are entitled to certain compensation benefits. These benefits include temporary total or temporary partial benefits for time lost from work and permanent partial or permanent total disability compensation for any physical disability associated with the injury.

During any temporary total disability period, if you are unable to work due to an injury, you are entitled to sixty-six and two-thirds percent (66 2/3%) of your average weekly earnings subject to provisions of the North Carolina

Workers' Compensation Act, which includes a maximum and minimum weekly amount you are allowed to receive. The maximum weekly benefit is adjusted annually, effective January 1st of each year. The weekly benefit effective when your claim is submitted remains in effect for the life of the claim.

If you are released by your treating physician to return to restricted duty and suffer wage loss before reaching maximum medical improvement you are entitled to temporary partial compensation equal to sixty-six and two-thirds percent (66 2/3%) of the difference between weekly earnings during light work and weekly earnings prior to the injury, subject to the maximum allowed by law.

If an injury results in any permanent or partial disability to a specific part of your body, you are entitled to compensation for loss of use of that specific part of the body based on a schedule provided by the NCIC. (The schedule for payment for loss of use is given later in this handbook.) The payment for loss of use of a specific member of the body is payable at the end of the healing period and is based on the number of weeks set forth in the schedule. If your injury does result in a permanent partial or permanent total rating, your treating physician will determine the rating.

If an injury results in facial or head scars which seriously disfigure you or cause the loss or permanent injury to an important organ of the body, you may be entitled to receive additional compensation up to \$20,000. No compensation is allowed for scars where an employee is paid for permanent loss or partial loss of use of the same member. An employee is also entitled to payment for disfigurement due to the loss of permanent teeth resulting from a compensable injury.

## **DEATH BENEFITS**

In the event of death resulting from an injury or occupational disease, death benefits are payable if the claim is filed with the NCIC in writing within two years. Compensation for death is paid for 400 weeks at sixty-six and two-thirds percent (66 2/3%) of the employees average weekly wage. Death benefits are paid to the total dependents of the employee or next of kin which ever applies. If a surviving spouse is unable to support herself or himself due to physical or mental disability as of the date of death of the employee, compensation shall continue during the life of the widow or widower or until remarriage. Compensation payments due a dependent child shall be paid for 400 weeks or until the child reaches age 18. Funeral expenses are allowed up to \$3,500.

## **RETURN TO WORK**

When a State employee who has experienced a work-related injury or illness and has been released to return to work by their treating physician, there are three possible return to work situations in State Government:

1. An employee has reached maximum medical improvement and has been released to return to work by their treating physician; the employee returns to the original or similar position held prior to the injury.
2. An employee has not reached maximum medical improvement but is ready to return to restricted duty work with the approval of the treating physician. The agency or university will provide transitional work for the employee suitable to the employee's capacity to work, which is meaningful, productive and advantageous to the employee and the agency or university. This is considered to be a trial return to work by the NCIC. If, within the first nine months, the treating physician determines that the employee is not able to perform the work, the employee must file an NCIC Form 28U to request reinstatement of disability compensation. When the employee reaches maximum medical improvement the employee should be returned to their original or similar position. The transitional duty work should be temporary and not exceed 90 days without approval from the agency or university Personnel Officer. All transitional duty work is subject to the agency or university's ability to provide such work. The agency or university will not create these work situations if it is not productive work.
3. An employee has reached maximum medical improvement and has been released by their treating physician but has received a disability, which prohibits employment in his/her previous position. The agency or university shall attempt to place the employee in another position (with an appointment like that held prior to the injury) that is suitable to the employee's capacity to work, and is meaningful, productive, and advantageous to the employee and the agency or university. During the work placement efforts the employee shall be appointed to the first suitable vacancy. If the employee accepts a permanent position in a lower pay grade than the pre-injury position, the employee's pay must be adjusted, as appropriate, within the lower pay grade. However, the employee may be eligible to continue receiving temporary partial workers' compensation benefits to supplement the lower pay. This disability benefit may continue for up to 300 weeks (previous periods of temporary total disability benefits will also be counted toward the 300 weeks).

If a position is not available that is suitable to the employee's capacity, the employee shall continue on workers' compensation leave until work placement or separation.

Work placement efforts may be in the form of referral to agency or university internal vacancies, Office of State Personnel vacancy listings, third party reemployment services, vocational rehabilitation, etc.

Your agency or university should have a structured return to work plan to address the return to work situations described above.

### **CONTINUATION OF BENEFITS**

When you, as a State employee, are injured on the job or if you contract an occupational disease and are placed on workers' compensation leave you are taken off the State's regular payroll and placed in leave without pay - workers' compensation leave status. While in this pay status there will be no deductions made from your workers' compensation weekly benefits. If you have payroll deductions made from your regular pay such as credit union loans, etc., it is your responsibility to take care of these deductions while on workers' compensation leave. While on workers' compensation leave you are eligible for continuation of the following benefits:

*Vacation/Sick Leave:* While on workers' compensation leave you continue to accumulate vacation and sick leave to be credited to your account for use upon return to work. If you do not return to work, vacation and sick leave accumulated during the first twelve months of workers' compensation leave will be paid in a lump sum along with other unused vacation/bonus credit which was earned prior to the injury.

*Hospitalization Insurance:* While on workers' compensation leave, you are in pay status and will continue coverage under the State's health insurance program. The State will pay the portion of the monthly premium covered under the State Health Plan. Premiums for any dependent coverage must be paid directly by you.

*Performance Increases:* Upon reinstatement, your salary will be computed based on the last salary plus any legislative increases to which you are entitled. Any performance increases which would have been given had you been at work may also be included in the reinstatement salary, or it may be given on any payment date following reinstatement.

*Longevity:* While in workers' compensation leave status you continue to receive longevity credit and, if eligible, shall receive annual payments.

*Retirement Service Credit:* While on workers' compensation leave you **do not** receive retirement service credits. As a member of the Retirement System, you may purchase credits for the period of time out on approved leave of absence. Upon request by you the Retirement System will provide a statement of the cost and a date by which purchase must be made.

### **CLOSING OF CLAIMS & CHANGE OF CONDITION**

Claims are generally closed when the employee reaches maximum medical improvement and returns to work without restrictions. Claims that involve only medical benefits are closed when the last medical bill is paid.

Claims are considered closed when the last medical or disability compensation payment is made. The claim is closed with the completion of NCIC Form 28B. You will receive a copy of this form, notifying you that your claim is being closed.

If a significant change of condition occurs within 2 years from date of last payment, a request for further compensation must be made in writing directly to the NCIC. This request must be made within 2 years of last payment of compensation or statute prohibits payment of further compensation. Consideration for future medical needs can be claimed with the completion of a NCIC Form 18M, which can be obtained from the NCIC.

In cases that involve only medical benefits no such change of condition will be considered after 12 months from date of last payment of bills by your agency or university.

### **PAYMENT SCHEDULE OF INJURIES AND PERIOD OF COMPENSATION**

If a claim results in permanent total loss of a specific member of the body, compensation is payable at the end of the healing period based on the schedule provided by the NCIC. If the injury results in partial loss of use of a specific member of the body compensation is paid on a percentage basis. The rate of payment is equal to sixty-six and two-thirds percent (66 2/3%) of the average weekly wages at the time of the claim times the number of weeks. This average weekly wage is subject to the statutory compensation minimum and maximum established by the NCIC. Below is the schedule for payment of injuries:

Thumb	75 weeks
First or index finger	45 weeks
Second or middle finger	40 weeks
Third or ring finger	25 weeks
Fourth or little finger	20 weeks
Great toe	35 weeks
Any other toe	10 weeks
Hand	200 weeks
Arm	240 weeks
Foot	144 weeks
Leg	200 weeks
Eye	120 weeks
Hearing (one ear)	70 weeks
Hearing (both ears)	150 weeks
Back	300 weeks

## **ASSISTANCE PROVIDED**

If you have questions concerning your claim, you should contact your supervisor or the agency or university Workers' Compensation Administrator or your Claims Adjuster. The Office of State Personnel also provides assistance to the agencies and universities and employees if they have questions. You can contact the State Government Workers' Compensation Program Administrator at (919) 807-4855 with questions.

If you disagree with the Third Party Administrator's handling of your claim you can contact the agency or university Workers' Compensation Administrator or the NC Industrial Commission (NCIC). An Information Specialist of the NCIC can be reached by calling (919) 807-2501, or toll free at (800) 688-8349.

If compensation has been denied and you wish to appeal the denial, you must file written notice to the North Carolina Industrial Commission, 430 N, Salisbury St., Dobbs Building, Raleigh, N. C. 27611, giving employee's name, employer's name, and date and nature of injury.

You must file notice with the NCIC within 2 years from the date of injury or last compensation payment, otherwise the statute prohibits filing any claim for further compensation.

If you would like a hearing before the NCIC you must file a request for hearing. This hearing request must be filed in writing. The NCIC will provide you with the appropriate form to request that a claim be assigned for hearing or mediation.